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UNION TANNING CO. *v.* COMMONWEALTH *et al.*

Sept. 19, 1918.

[96 S. E. 780.]

1. Taxation (§ 362*)—Omitted Property—Foreign Corporation—“Principal Place of Business.”—Omitted capital of New Jersey corporation, being intangible personalty and assessable in the state of Virginia wherein the corporation was doing business, was legally assessable for 1908 to 1915, inclusive, in the year 1916 in the county where it maintained a plant and made its return for taxes, under Code 1904, § 492, requiring the intangible personalty of corporations to be listed at the “principal place of business,” and Acts 1916, p. 655, making property of foreign corporations taxable at their business domicile within the state, and Code 1904, § 508, as amended by Acts 1916, c. 491, authorizing the assessment for omitted taxes, since the situs for taxation of the corporation was not where its principal resident officer was, but where it made its return of taxation.

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 101.]

2. Taxation (§ 13*)—Power of Legislature—Foreign Corporation.—The Legislature has plenary power to provide that intangible personalty of a nonresident corporation shall be assessable for taxation at any place it may designate, regardless of the true domicile.

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 89, 101.]

3. Corporations (§ 645*)—Foreign Corporation—Place of Business.—A foreign corporation doing business at more than one place in the state has the option to make a bona fide choice ante motam litem of any one of such places as its principal place of business in the state.

[Ed. Note.—For other cases, see 6 Va.-W. Va. Enc. Dig. 200.]

4. Taxation (§ 164*)—Foreign Corporation—“Principal Place of Business.”—Compliance of foreign corporation with Code 1904, § 1104, requiring it to designate an office and agent where and upon whom legal process may be served, does not make such office the “principal place of business” within the state so as to establish the situs for taxation.

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 101.]

5. Taxation (§ 319 (2)*)—Reduction of Assessment—Burden of Proof.—Applicant for reduction of an assessment for taxes under Code 1904, § 568, permitting reduction if the court is satisfied that there has been an erroneous assessment, has the burden of proving that the assessment was erroneous, since the assessing officers act judicially and are not bound by the return of the property owner and need act only in good faith, the presumption being that the assessment is proper, especially in view of Acts 1916, c. 491, § 1, par. 7, pro-

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

viding that in contested cases the burden of proof shall be on the taxpayer to show that he had made a full disclosure.

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 106.]

6. Taxation (§ 362*)—Omitted Taxes—Validity of Assessment.—The fact that the examiner of records had no evidence before him as to the exact total amount of omitted capital or what proportions were employed at various points in the state, but acted solely on his own opinion, did not invalidate the assessment for omitted taxes, since the examiner acts judicially.

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 91.]

7. Constitutional Law (§ 229 (3), 294 (1*))—Taxation (§ 37*)—Due Process of Law—Equal Protection.—On application for reduction of assessment for omitted taxes, evidence that the property was assessed in the same proportion as the property of other citizens was properly excluded, there being no denial of due process of law and equal protection of laws guaranteed by Const. U. S. Amend. 14, and by Const. Va. §§ 11, 168, since it is only a systematic intentional discrimination which invalidates the levy.

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 85.]

8. Taxation (§ 362*)—Omitted Property—Correction of Assessment—Full Disclosure.—Code 1904, § 508, as amended by Acts 1916, c. 491, § 1, par. 7, prohibiting the correction of an assessment when the property owner has made a full disclosure of his intangible personalty, is of no avail to a corporation which made no attempt to disclose omitted capital.

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 91, 106.]

9. Taxation (§ 362*)—Omitted Taxes—Interest.—Since Acts 1916, c. 491, vests no discretion in the taxing officer as to whether interest upon omitted taxes shall be charged, such taxes bear interest.

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 118.]

Error to Circuit Court, Giles County.

Proceeding on the application of the Union Tanning Company for relief from an assessment for taxation, opposed by the Commonwealth of Virginia. To review the judgment rendered, the applicant brings error. Affirmed.

Attorney-General Ino. R. Saunders and Assistant Attorney General J. D. Hank, Jr., for the Commonwealth.

STAPLETON v. COMMONWEALTH.

Sept. 19, 1918.

[96 S. E. 801.]

1. Homicide (§ 22 (2*))—Murder in First Degree.—A homicide in

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.